

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KEVIN PINE, *individually and on behalf of all
others similarly situated,*

Plaintiff,

v.

A PLACE FOR MOM, INC., a Delaware
corporation,

Defendant.

Case No. 1:17-cv-05716

Hon. Rebecca Pallmeyer

Mag. Judge Mary Rowland

STIPULATION TO TRANSFER VENUE

Pursuant to 28 U.S.C. § 1404, Plaintiff, Kevin Pine, individually and on behalf of all other persons similarly situated, and Defendant, A Place for Mom, Inc. (“APFM”), (collectively, the “Parties”) hereby file this Stipulation to Transfer Venue to the United States District Court for the Western District of Washington. In support thereof, the Parties respectfully show:

This class action lawsuit was filed on August 7, 2017. *See* Dkt. 1 (“Complaint” or “Complt.”). The lawsuit was initially filed by Andrew Kim, a citizen of the State of Illinois residing in the Village of Mundelein, against APFM, a Delaware corporation with its principal place of business in Seattle, Washington. Complt., ¶ 12-13. Mr. Kim alleged that APFM violated the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.* *Id.* at ¶ 1. Mr. Kim alleged that the Court had subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005 codified as 28 U.S.C. § 1332(d)(2) as well as federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227, *et seq.* *Id.* at ¶¶ 8-9. Mr. Kim alleged that venue was proper because a substantial portion of the events complained of occurred in this District. *Id.* at ¶ 11.

On October 17, 2017, the Court granted Mr. Kim's request to withdraw from the proceedings, to substitute the named plaintiff, and to file an amended complaint. *See* Dkt. 28. Pursuant to that Order, Plaintiff Kevin Pine filed the First Amended Class Action Complaint ("Amended Complaint"). *See* Dkt. 30-31. Mr. Pine is a citizen of California. Dkt. 30 at ¶ 12. Mr. Pine alleges that APFM placed phone calls to him in violation of the TCPA in California. *Id.* at ¶¶ 12. 41-45. Because APFM maintains that none of the alleged wrongful conduct at issue in the Amended Complaint occurred in this District, the Parties agree that transfer of this case to the U.S. District Court for the Western District of Washington – where Defendant APFM resides – is appropriate.

Transfer of this matter is controlled by 28 U.S.C. § 1404, which provides:

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

Because Defendant's principal place of business is located within the Western District of Washington, this action could have been brought there initially, making transfer to the Western District appropriate under 28 U.S.C. § 1404. Furthermore, based on Defendant's representations regarding the location of relevant witnesses and documents, Plaintiff agrees that the convenience of the parties and witnesses to this action warrants transfer and therefore supports transfer of this action to the Western District of Washington.

Finally, Defendant APFM has filed a Motion to Stay the proceedings based on the pendency of an appeal in the United States Court of Appeals for the District of Columbia. *See* Dkt. 14. In view of the Parties Stipulation herein, Defendant APFM withdraws its Motion to Stay and hereby represents that it will not to file a motion to stay this case based on the pendency

of the D.C. Circuit appeal should the Court transfer this action to Western District of Washington.

WHEREFORE, in consideration of the foregoing, the Parties agree and hereby stipulate to:

Transfer of this action to the United States District Court for the Western District of Washington and request that this action be transferred accordingly; and

Withdrawal of Defendant's Motion to Stay (Dkt. 14) and the relief requested therein and request that the Court abstain from ruling on same.

Dated: November 3, 2017

KEVIN PINE

A PLACE FOR MOM, INC.

By: /s/ Gary M. Klinger
One of His Attorneys

By: /s/ Debra Bernard
One of Its Attorneys

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CERTIFICATE OF SERVICE

John T. Spragens, an attorney, hereby certifies that he caused a copy of the foregoing to be served on all counsel of record by electronically filing the document with the Clerk of Court using the ECF system this 3rd day of November, 2017.

s/John T. Spragens

John T. Spragens